



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Voluntary Report - Public distribution

Date: 1/4/2008

GAIN Report Number: JA8001

Japan

Sanitary/Phytosanitary/Food Safety

Differing Enforcement for Imported and Domestic Foods

2008

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Report Highlights:

Since Japan's Positive List System was implemented on May 29, 2006, imported food has been systematically monitored for chemical residues by the Ministry of Health, Labor and Welfare (MHLW). In the first 10 months, imported foods racked up 455 chemical residue violations, which are published by MHLW. On the other hand, reports of domestic Japanese violations are sporadic. Domestic enforcement is carried out by regional agricultural administrative offices, which are overseen by the Ministry of Agriculture, Forestry, and Fisheries (MAFF), and the overall number of cases is not publically known. Differing enforcement for imported and domestic foods raises national treatment questions.

Includes PSD Changes: No
Includes Trade Matrix: No
Trade Report
Tokyo [JA1]
[JA]

Background Implementation of Positive List System

On May 29, 2006, the Japanese government implemented a new chemical residue law commonly known as the Positive List System. Positive List System incorporates previously set maximum residue limits (MRLs) and provisional MRLs for approximately 800 agricultural chemicals, including feed additives and veterinary drugs. Newly added MRLs (based on data from international institutions and/or other governments) remain provisional until they are fully reviewed by Japan's Food Safety Commission. For a product that does not have MRL for a specific chemical, a uniform limit of 0.01 ppm will be applied as a default tolerance. For more details on the Positive List System, please see GAIN reports [JA6004](#) and [JA6011](#).

Monitoring system, violation policy, and reports of import violations

For imported crops, MHLW develops an annual monitoring and guidance plan every year. An English version of the Monitoring and Guidance Plan for Japan Fiscal Year (JFY) 2007 may be found at: (<http://www.mhlw.go.jp/topics/yunyu/dl/tp0130-1z.pdf>).

For pesticides, testing is to be conducted by quarantine offices. The purpose of the monitoring tests is to check whether crops in the marketplace comply with established MRLs. Any product found to contain a substance in excess of an established MRL may not be marketed in Japan. At ports, MHLW normally monitors between 3-10% of imports for antimicrobials, chemical residues, food additives, microorganisms, fungal toxins and unapproved genetically engineered products. Half of the total samples taken are for testing chemical residues from agricultural chemicals and antimicrobials. Unapproved genetically engineered events have a 'zero' tolerance rather than a default MRL.

When MHLW initially finds a violation, it will be reported on MHLW's website (<http://www.mhlw.go.jp/english/topics/importedfoods/index.html>). The number of agricultural chemical residue violations under the Food Hygiene Law (a.k.a., Positive List violations) in JFY2006 was 455 (<http://www.mhlw.go.jp/topics/yunyu/dl/tp0130-1aa.pdf>).

The following violation policy is applied (Figure 1). For the first violation, the monitoring rate will be enhanced for the specific chemical/product from the country of origin. The JFY2007 'enhanced monitoring' rate is 30% and is applied to all similar products from the violating country. The cost of enhanced monitoring is paid for by MHLW. If additional violations are found, MHLW will impose an 'inspection order,' meaning that 100% of that product is held at the port for testing and the importer must pay for the additional testing. Finally, if MHLW finds the problem persists, it may implement a comprehensive ban of imports from the country of origin for that product. Unless suppliers are able to demonstrate to MHLW's satisfaction that the problem has been addressed, sanctions remain for following periods. Enhanced monitoring will remain for the period of 12 months, unless the cause is found by the supplier and acceptable countermeasures are taken by stakeholders to prevent a recurrence of the violation. An inspection order will remain for 24 months and 300 imports assuming there are no further violations. Again, this period may be shortened if suppliers can demonstrate adequate corrective actions (page 6, Monitoring and Guidance Plan for JFY2007, <http://www.mhlw.go.jp/topics/yunyu/dl/tp0130-1z.pdf>).

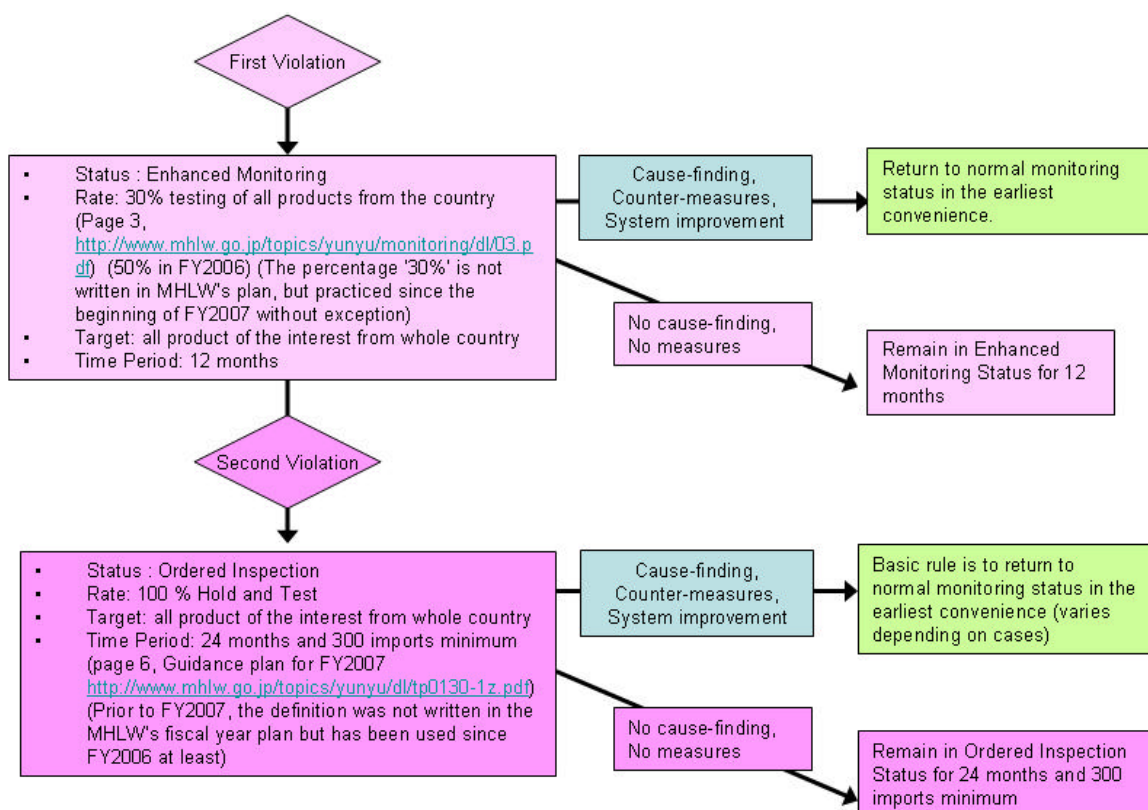


Figure 1. Violation treatment to imported produce under Positive List System by MHLW (as of August 2007)

Monitoring system, violation policy, and violation reports of domestics

While MHLW is responsible at the national level for enforcing MRLs for imported foods, MAFF oversees domestically produced foods. For domestic foods, local governments develop a Food Hygiene Inspection and Guidance Plan based on the food manufacturing conditions in the region. Local governments are responsible for enforcement and investigations (see Surveillance System for the Positive List, <http://www.mhlw.go.jp/topics/bukyoku/iyaku/syoku-anzen/zanryu2/dl/060329-1l.pdf>, in Japanese). Prior to and after the Positive List was implemented, MAFF released a series of announcements to regional agricultural administration offices requesting thorough management of agricultural chemicals (e.g., document#: 18Shou-An2354, May 29, 2007, <http://www.maff.go.jp/nouyaku/>, in Japanese). On March 28, 2007, following MRL violations by domestic producers, MAFF released another document (document#: 18Shou-An14707, March 3, 2007, in Japanese) addressed to director-generals of regional agricultural administration offices that again appealed to them to observe the Positive List System.

There is no public summary of violations by Japanese producers. However, independent research did uncover 29 violations by domestic produce, including three violations in squash from Hokkaido (Table 1).

Table 1. Positive list violation by Japanese produce.

Date	Crop	Place of production	Name of the chemical	Detected value (ppm)	JP MRL
6/26/2006	Garland chrysanthemum (edible chrysanthemum)	Kobe, Kakobawa	Carbendazin	7.8 ppm	3
7/4/2006	Sweet pepper	Kochi, Nangoku	Pyridafonthion	Unreported	0.01
9/11/2006	Green beefstake plant (Ao Shiso, <i>Perilla frutescens</i>)	Kochi, Shimanto	Azoxystrobin	10.3 (max)	5
9/12/2006	Green beefstake plant (Ao Shiso, <i>Perilla frutescens</i>)	Kochi, Kami	Azoxystrobin	1.3 to 2 times over MRL	5
9/4/2006	Apple	Not reported	Cyanophos (e.g CYAP)	Unreported	0.2
10/11/2006	Squash	Hokkaido, Hakodate	Heptachlor	0.07	0.03
10/26/2006	Komatsuna (<i>Brassica campestris</i> var. <i>perviridis</i>)	Kochi, Tosa	Etofenprox	5.7 (max)	2
11/9/2006	freshwater clam	Shinji Lake, Shimane	Thiobencarb	0.03 – 0.12	0.01
11/11/2006	Pumpkin	Hokkaido	Heptachlor	N/A	0.03
11/14/2006	Garland chrysanthemum (edible chrysanthemum)	Yamagata City, Yamagata	Fenvalerate	5.6	0.5
11/25/2006	Kinji So (leaf vegetable of Compositae family)	Ishikawa	Cyanophos	Not announced	0.05
12/5/2006	freshwater clam	Biwako Lake, Shiga	Thiobencarb	0.02	0.01
2/1/2007	Strawberry	Kamitsuga, Tochigi	Fosthiazate	0.44, 0.5-0.6	0.05
2/7/2007	Freshwater clam	Tottori	CUMYLURON	0.06, 0.07	0.01
2/8/2007	Garland chrysanthemum (edible chrysanthemum)	Yamaguchi	FENPROPATHRIN	2.24	0.01
2/22/2007	Mizuna (<i>Brassica rapa</i> L. sub <i>nipposinica</i> var. <i>laciniata</i>)	Kanagawa	FOSTHIAZATE	0.03	0.01
4/1/2007	Sweetpepper	Ibaraki	FOSTHIAZATE	0.26	0.1
7/9/2007	Parsley	Kanagawa	DIAZINON	2.3	0.1
5/12/2007	Parsley	Shizuoka	FENITROTHION	0.02-0.37	0.01
6/9/2007	Parsley	Kagawa	TRIADIMEFON	6.7	1
9/9/2007	Squash	Hokkaido	Heptachlor	0.14	0.03
9/12/2007	Asian pear	Ohita	Fenitrothion (aka MEP)	0.04	0.02
9/28/2007	Shirana (<i>Brassica rapa</i> L. sub <i>pekinensis</i>)	Nara	EPN and Isoxathion	0.083 (EPN) 0.2 (Isoxathion)	0.01 (EPN) 0.1 (Isoxathion)
10/17/2007	Squash	Hokkaido	Heptachlor	0.07	0.03
10/26/2007	Brown rice	Hokkaido	PROCYMIDONE (fungicide)	0.03	0.02
11/16/2007	Komatsuna (<i>Brassica rapa</i> , turnip developed for leaves and leaf-stalks.	Akita	Diclocymet	0.05	0.01
12/4/2007	Common bean	Nagasaki	EPN	0.23	0.01
12/17/2007	Garland chrysanthemum (<i>Chrysanthemum coronarium</i>)	Kyoto	ISOXATHION	0.22	0.1
12/26/2007	Nira (Chinse chives) <i>Allium tuberosum</i> Rottler ex Sprengel	Kochi	Azoxystrobin Thiophanate-Methyl	11ppm; Azoxystrobin 13.3ppm; Thiophanate-Methyl	5ppm; Azoxystrobin 3ppm; Thiophanate-Methyl

Additionally, there seems to be no collection or analysis of information at the national level into the causes or corrective actions taken on domestic MRL violations. Furthermore, there is not accessible information on the Positive List enforcement measures taken by local authorities.

For instance, Hokkaido prefecture experienced three violations of the positive list for squash with the chemical heptachlor. Following the incidents, Hokkaido's agricultural administration office set the taskforce office for residual heptachlor in Hokkaido farm soil (http://www.pref.hokkaido.lg.jp/ns/shs/heputakuroru_002.htm). The website explains that the squash is produced from the region covered by Kameda branch of Japan Agriculture in Hakodate City and all stocks have been recalled. Heptachlor is an organic chlorine pesticide which lost its registration in 1975. Therefore, it has been suspected that the chemical had remained in soil and was absorbed by the plants. The local office has proposed counter measures, however, it is difficult to conclude that these would be applicable to imported products. Also, the office conducted pre-marketing testing for heptachlor residue in squash from various parts of Hokkaido (<http://www.pref.hokkaido.lg.jp/ns/shs/dainikaiheputakurorukaigisiryouti.htm>). Of 558 tests, 37 samples (6.63%) showed residue levels above the MRL. This suggests that heptachlor residues exist in various parts of Hokkaido, not just area around Kameda JA in Hakodate City. The 6.63 % of violation rate exceeds the 5 % criteria indicated by MHLW (page 6, 2nd line from bottom, 4.(5) Comprehensive import ban under Article 8 or Article 17 of the Law, Monitoring and Guidance Plan for JFY2007, <http://www.mhlw.go.jp/topics/yunyu/dl/tp0130-1z.pdf>).

The wide structural differences in Japan's MRL enforcement for imported and domestically produced foods raise national treatment questions. At the squash incident indicates, a local government or MAFF view on acceptable countermeasures for domestically produced products may be different than what MHLW requires for imported foods. The situation is made more opaque given that information on the identification, enforcement, and resolution of domestic Positive List incidents is not publicly available.